

**LEGAL NOTICE**  
**Notice of Application for Variance**

The Director of Labor and Industrial Relations (“Director”), pursuant to chapter 396-4(a)(3), Hawaii Revised Statutes (“HRS”), hereby gives notice of an application for a variance by the Hawaii Pest Control Association (“Association”), located at 820 Mililani Street, Suite 810, Honolulu, Hawaii 96813. The variance application was made on behalf of several of the Association’s members, who are as follows:

Ace Termite, 47-479 Apau Lp., Kaneohe, HI 96734  
Advance Termite & Pest Control, PO Box 17032, Honolulu, HI 96817  
Aloha Termite & Pest Control, 1024-D Kikowaena Pl., Honolulu, HI 96819  
Aloha Termite & Pest Control, 1544 Haleukana St., Bay 8, Lihue, HI 96766  
Bowman Termite & Pest Control, 469 A Kalanikoa St., Hilo, HI 96720  
Bowman Termite & Pest Control, 253 Waiehu Beach Rd., Wailuku, HI 96793  
Bug Man Termite & Pest Control, 296 Alamaha St., Suite C-3, Kahului, HI 96732  
Chemi-Pure Products, 1615 Democrat St., Honolulu, HI 96819  
Dick’s Fumigation Service, 841 Alua St. #103, Wailuku, HI 96793  
Diversified Exterminators, 1940 Democrat St., Honolulu, HI 96819  
Fil-Am Termite Service, 745 Gulick Ave., Honolulu, HI 96819  
Gima Pest Control, 96-1225 C Waihona St., Pearl City, HI 96782  
Hawaii Fumigation, PO Box 856, Kealahou, HI 96750  
Hilo Terminix, 565 E. Lanikaula St., Hilo, HI 96720  
Hilo Termite & Pest Control, 28 Pookela St., Hilo, HI 96720  
Insight Enterprises, 770A Alua St., Wailuku, HI 96793  
Kama’aina Termite & Pest Control, 940 Queen St. #B, Honolulu, HI 96814  
Kauai Termite Fumigation, 3176 Oihana St., Ste. 101, Lihue, HI 96766  
Pacific Pest Management, Inc., 75-5591 Palani Rd., Ste. 205, Kailua-Kona, HI 96740  
Sandwich Isle Termite & Pest Control, 96-1368 Waihona St., Bay 4, Pearl City, HI 96782  
Terminix International, 1001 Kamokila Blvd. #116, Kapolei, HI 96707  
Terminix International-Kona, 73-5574 Olowalu St. #12, Kailua-Kona, HI 96740  
Terminix Kauai, 2976 Aukele St., Unit B1, Lihue, HI 96766  
Terminix – Maui, 891 Eha St., Wailuku, HI 96793  
Xtermco, 94-435 Akoki St., Waipahu, HI 96797  
Zac’s Fumigation, 320 Hukilike St., Bldg 4, Unit D, Kahului, HI 96732

The Association, on behalf of the above-named members, filed an application pursuant to section 12-53-7, Hawaii Administrative Rules (“HAR”), for a variance from the application of chapter 12-72.1, HAR, specifically 29 CFR §1910.23(c)(1) and 29 CFR §1910.28(a)(1). It requests the use of an alternate safety practice because the members are unable to attach guardrail systems, as required by the cited standards on houses. The Association, on behalf of the above-named members, requests a variance from the cited standards to permit workers who are in the process of erecting and removing the tenting to follow the construction industry standards in chapter 12-121.2, HAR, specifically 29 CFR 1926, Subpart M, Fall Protection.

The Director has determined that the application of chapter 12-121.2, HAR will provide employment and places of employment to the above-named members’ employees working conditions that are as safe and healthful as those which would prevail if they complied with chapter 12-72.1, HAR. The Director is considering issuing the variance upon the following conditions:

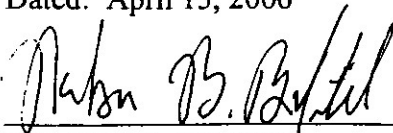
1. Each member will conduct its tent erection and dismantling activities pursuant to chapter 12-72.1, HAR.
2. For purposes of this variance the 4-foot height requirement of chapter 12-72.1, HAR, shall apply instead of the 6-foot requirement of chapter 12-121.2, HAR.
3. If a Competent Person determines that compliance with chapter 12-72.1, HAR, is infeasible or creates a greater hazard at the particular jobsite, the member must use conventional fall protection systems in accordance with the construction industry standards, chapter 12-121.2, HAR.
4. If the Competent Person determines that compliance with chapter 12-121.2, HAR, is infeasible or creates a greater hazard, then a written fall protection plan shall be prepared pursuant to 29 CFR §1926.502(k) [chapter 121.2, HAR].
5. If the alternative fall protection systems in 29 CFR §1926.502(k) [chapter 121.2, HAR], other than safety monitors, are not feasible, the members shall comply with 29 CFR §1926.502(h) [chapter 121.2, HAR], pertaining to safety monitors.
6. The members shall comply with 29 CFR §1926.503 [chapter 121.2, HAR], pertaining to training and retraining.

In conformance with section 12-53-10, HAR and this notice, if you oppose this variance application or would like to submit any comments, the Director must receive these comments by May 3, 2006. Any interested parties may request for a hearing no later than May 3, 2006. Written comments and requests for a hearing must be submitted in quadruplicate to the Director of Labor and Industrial Relations, Hawaii Occupational Safety and Health Division, 830 Punchbowl Street, Room 425, Honolulu, Hawaii 96813.

A copy of the complete notice of variance will be made available for public viewing from the first working day that this abbreviated legal notice appears in the Honolulu Star Bulletin, The Honolulu Advertiser, Hawaii Tribune Herald, West Hawaii Today, The Maui News, and The Garden Island, through the twenty-day comment period, at 830 Punchbowl Street, Room 425, Honolulu, Hawaii 96813; 2264 Aupuni Street, Wailuku Hawaii 96793; 75 Aupuni Street, Hilo, Hawaii 96720; and 3060 Eiwa Street, Lihue, Kauai 96766. A copy of the complete notice of variance may be viewed at the address below or at <http://www.hawaii.gov/labor>, or by submitting a request with a prepaid fee of \$.35 for the copy and \$.63 postage to 830 Punchbowl Street, Room 425, Honolulu, Hawaii 96813 or by calling (808) 586-9086.

The Director shall consider all comments submitted by May 3, 2006, or at a hearing if one is held in accordance with this notice in determining whether the Application for Variance should be granted. If no adverse comments or requests for a hearing are received, the variance will be granted and this shall serve as notice thereof.

Dated: April 13, 2006

  
NELSON B. BEFITEU

Director

Department of Labor and Industrial Relations